IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

TUESDAY, THE 28TH NOVEMBER 2006 / 7TH AGRAHAYANA 1928

WP(C).No. 31503 of 2006(A)

PETITIONER:

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1. MUHAMMED HANEEFA,
   COOK, MODEL RESIDENTIAL SCHOOL,
   PAINAVU P.O., IDUKKI DISTRICT.

2. V.K.PRABHAKARAN,
   COOK, MODEL RESIDENTIAL SCHOOL,
   PAINAVU P.O., IDUKKI DISTRICT.

3. T.VIJAYAN,
   COOK, MODEL RESIDENTIAL SCHOOL,
   PAINAVU P.O., IDUKKI DISTRICT.

BY ADV. SRI.ASOK M.CHERIAN

RESPONDENTS:

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1. SENIOR SUPERINTENDENT,
   MODEL RESIDENTIAL SCHOOL, PAINAVU P.O.,
   IDUKKI DISTRICT.

2. THE PROJECT OFFICER,
   INTEGRATED TRIBAL DEVELOPMENT PROJECT,
   IDUKKI DISTRICT.

3. DIRECTOR OF SCHEDULED TRIBE
   DEVELOPMENT, DIRECTORATE OF SCHEDULED
   TRIBE DEVELOPMENT, THIRUVANANTHAPURAM.

4. THE STATE OF KERALA, REPRESENTED BY
   ITS SECRETARY TO GOVERNMENT,
   SCHEDULED TRIBE DEVELOPMENT DEPARTMENT,
   SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVT. PLEADER SHRI. K.I. JOSEPH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K. DENESAN, J.

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W.P.(C) No. 31503 OF 2006 A

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Dated this the 28th November, 2006

J U D G M E N T

The petitioners belong to the category of Cooks in the Tribal Development Department. Presently, they are working in the hostel attached to Model Residential School, Painavu. Certain serious grievances suffered by the petitioners were voiced through detailed representation preferred by them and addressed to the 3rd respondent. Ext. P1 is the copy of that representation. It was first submitted before the next higher authority. The 2nd respondent is an intermediary officer and therefore Ext. P1 was channelized through him. In the normal course the 2nd respondent is not expected to dispose of Ext. P1 by passing an order as he likes because Ext. p1 is addressed to the 3rd respondent who is the head of the department and who alone is expected to consider the grievances highlighted by the petitioners in Ext. P1. But what transpired was that the 2nd respondent felt that he is competent to give a reply to the petitioners and straightaway dealt with the representation as though it was addressed to him, spoke on the merits of

the matter applying his subjective thinking on the issues and then decided that the representation need not be forwarded to the 3rd respondent. He also stated, as seen from Ext. P2, that such representations shall not be received by the 1st respondent-Senior Superintendent from the petitioners.

2. Feeling aggrieved, this writ petition has been filed.

3. I have heard the Special Govt. Pleader appearing for the respondents. Ex facie, the stand taken by the second respondent appears to be arbitrary, highhanded and not in accordance with the office procedure expected to be followed by the officers of government departments. It was neither proper nor competent on the part of the 2nd respondent to pass final orders on Ext. P1 or to direct that hereafter such kind of representations shall not be received for onward transmission to the Director of the Department. Ext. P2 is therefore liable to be set aside. I do so. There shall be a direction that Ext. P1 shall be forwarded to the 3rd respondent and if it is so felt, the 2nd respondent can make his own remarks about the factual aspects referred to in Ext. P1. However, the final decision will have to be taken by the 3rd

respondent who shall do so after affording an opportunity of being heard to the petitioners since the grievances highlighted are in connection with the day-to-day difficulties experienced by the petitioners in the matter of discharging their duties and other service conditions. Whether the service conditions should be improved or not is also a matter for the 3rd respondent to consider and, if so required, after getting necessary orders from the 4th respondent-Government.

4. Respondents 1 and 2 shall therefore forward Ext. P1 to the 3rd respondent within two weeks from the date of receipt of a copy of the judgment. The 3rd respondent shall consider the same as directed above within one month on receipt of a copy of the judgment and pass appropriate orders. The result of disposal of Ext. P1 shall be communicated to the petitioners immediately.

K.K. DENESAN
JUDGE

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